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असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in Rajya Sabha on 15th December, 2017:—

I

BILL NO. XXXVII OF 2017

A Bill to promote conception, experimentation and implementation of educational innovations in the country by establishing the Educational Innovations Commission and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Educational Innovations Commission Act, 2017.
(2) It extends to the whole of India.
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent
and
commencement.

2. In this Act, unless the context otherwise requires,—

Definitions.

(i) "Chairperson" means the Chairperson of the Commission;

(ii) "Commission" means the Educational Innovations Commission established under section 3;

- (iii) "Committee" means a Committee appointed under section 23;
- (iv) "Council" means a Council constituted under section 22;
- (v) "Executive Chairperson" means the Executive Chairperson of the Commission;
- (vi) "Fellow" means a person duly appointed as a fellow of the Commission under section 24;
- (vii) "Fund" means the Fund of the Commission established under section 18;
- (viii) "Member" means a Member of the Commission nominated or appointed under sub-section (3) of section 5;
- (ix) "prescribed" means prescribed by rules made under this Act;
- (x) "regulations" means regulations made under section 33;
- (xi) "Vice-Chairperson" means the Vice-Chairperson of the Commission.

CHAPTER II

ESTABLISHMENT, INCORPORATION AND COMPOSITION OF INDIA EDUCATIONAL INNOVATIONS COMMISSION

Establishment and incorporation of Commission.

3. (1) For the purpose of promoting conception, experimentation and implementation of educational innovations in the country, the Central Government shall, by notification in the Official Gazette, establish a Commission by the name of the Educational Innovations Commission with effect from such date as may be specified in the notification.

(2) The Commission shall be a body corporate with perpetual succession and common seal and may sue or be sued in its corporate name and shall, subject to the provisions of this Act, be competent to acquire, hold and dispose of property, both movable and immovable, and to contract and do all things necessary for the purposes of this Act.

Headquarters of Commission.

4. The headquarters of the Commission shall be at Delhi or at such other place, as the Central Government may, by notification in the Official Gazette, specify.

Composition of Commission.

5. (1) The Commission shall consist of the Chairperson and twelve other members, namely:—

- (a) the Prime Minister of India, *ex-officio* Chairperson;
- (b) the Minister of Human Resource Development, *ex-officio* Vice-Chairperson;
- (c) the Executive Chairperson nominated under sub-section (2);
- (d) the Secretary to the Government of India, Ministry of Human Resource Development, *ex-officio* member;
- (e) the Secretary to the Government of India, Ministry of Finance, *ex-officio* member;
- (f) the Additional Secretary to the Government of India, Ministry of Human Resource Development, Department of Higher Education, *ex-officio* member;
- (g) the Vice-Chancellor of a University, by rotation in such manner as may be prescribed from amongst the Vice-Chancellors of Central Universities, *ex-officio* member;
- (h) the Chairman of the Central Board of Secondary Education, *ex-officio* member;
- (i) the Director, National Council of Educational Research and Training, *ex-officio* member;
- (j) one Member for innovation in science, technology and vocational courses;

(*k*) one Member for innovations in programmes relating to humanities, art, craft and other cultural courses and value-oriented education;

(*l*) one Member for innovations in pedagogical methods including those related to curriculum, evaluation and teaching-learning aids;

(*m*) one Member for innovations in physical education including courses related to gymnastics, aquatics, athletics, combatives, Indian and universal games, Yogic (physical and psychological) exercise, health, Scouts and Guides, National Cadet Corps and National Service Scheme programmes.

(2) The Executive Chairperson referred to in sub-clause (*c*) of sub-section (*1*) shall be nominated by the Chairperson from a panel of three persons recommended by the Search Committee appointed under section 7:

Provided that the first Executive Chairperson shall be nominated for a period of two years.

(3) Each Member referred to in clauses (*j*) to (*m*) of sub-section (*1*) shall be nominated by the Central Government from a panel of three persons recommended by Search Committee appointed under section 7:

Provided that the first appointment of the Members referred to in this sub-section, shall be made by the Chairperson on the recommendation of the Executive Chairperson from amongst such persons as he thinks fit.

6. (*1*) A person to be nominated as an Executive Chairperson under sub-section (*2*) of section 5, shall,

Qualifications
of Executive
Chairperson
and of
Members.

(*a*) be a citizen of India;

(*b*) be a renowned educationist, devoted to educational reforms and innovations;

(*c*) have proven record of reforms and innovations;

(*d*) have actual experience in experimentation and implementation of reforms and innovations;

(*e*) be well versed in the educational philosophy of—

(*i*) pioneering educationist of India, and

(*ii*) leading pioneers of educational innovations in the world; and

(*f*) have sound knowledge of Indian and universal culture.

(2) A person to be nominated as a Member under sub-section (*3*) of section 5, shall:—

(*a*) be a citizen of India;

(*b*) be a renowned educationist, devoted to educational reforms and innovations;

(*c*) have proven record of reforms and innovations in the relevant fields of sciences, technology, vocational courses, humanities, arts, crafts and other cultural courses and value oriented courses, pedagogical courses and methods, physical education, yoga, health, Scouts and Guides, National Cadet Corps and National Service Scheme programmes;

(*d*) have actual experience in experimentation and implementation of reforms and innovations;

(*e*) be well versed in the educational philosophy of—

(*i*) pioneering educationist of India, and

(*ii*) leading pioneers of educational innovations in the world; and

(*f*) have sound knowledge of Indian and universal culture.

Search
Committee.

7. (1) For the purpose of nomination of Executive Chairperson and Members under sub-sections (2) and (3) of section 5, the Central Government shall appoint a Search Committee consisting of three persons who, in the opinion of the Central Government, are eminent educationists having wide knowledge of educational reforms and innovations and are of high repute and integrity.

(2) The Central Government shall designate one of these persons as the Chairperson of the Committee.

(3) The Search Committee shall follow such procedure as may be prescribed.

(4) A member of the Search Committee shall not be entitled to receive any compensation for his service but shall be reimbursed for the travelling and other expenses incurred by him in discharge of his duties.

(5) The expenses referred to in Sub-section (4) shall be paid out of the Fund.

Terms and
conditions of
office of
Executive
Chairperson
and of
Members
other than *ex-
officio*
members.

8. (1) The term of office of Members, other than *ex-officio* members, who are appointed on the recommendation of the Executive Chairperson, shall be two years from the date of their nomination.

(2) The term of office of the Executive Chairperson and Members, other than *ex-officio* members, who are nominated on the recommendation of Search Committee, shall be five years from the date of their nomination.

(3) The term of office of an *ex-officio* member shall continue so long as he holds office by virtue of which he is such a member.

(4) The terms and conditions of office of the Executive Chairperson and the Members other than *ex-officio* members shall be such as may be prescribed.

(5) The Executive Chairperson and the Members sub-section shall be whole time salaried persons.

(6) The salaries and other emoluments of—

(i) the Executive Chairperson shall not be less than that of the Secretary to the Government of India; and

(ii) the Members other than *ex-officio* members shall not be less than that of the Additional Secretary to the Government of India.

Filling up of
vacancies.

9. (1) On occurrence of any vacancy in the office of the Executive Chairperson due to death, resignation or any other reason, the same shall be filled in by the Chairperson by nominating a person in the manner provided in section 5.

(2) On occurrence of any vacancy in the office of the Members due to death, resignation or any other reasons, the same shall be filled in by the Central Government by appointing or, as the case may be, nominating a person in the manner provided in section 5.

Disqualifi-
cations.

10. A person shall be disqualified for being appointed or nominated or being an Executive Chairperson or a Member of the Commission if such person,—

(a) is, or any time, being adjudged insolvent;

(b) is of unsound mind and stands so declared by the competent court;

(c) is or has been convicted of any offence which, in the opinion of the Central Government, involves normal turpitude; or

(d) has, either directly or indirectly, any financial or other interest which is likely to affect prejudicially his functioning.

Removal and
resignation of
Executive
Chairperson
and Member.

11. (i) Notwithstanding anything contained in sub-section (1) of section 8, the Chairperson or, as the case may be, the Central Government may, at any time, remove the Executive Chairperson or any Member from office if, in its opinion, such Executive Chairperson or a Member,—

(a) is, or has become subject to any the disqualifications mentioned in section 10;

(b) has been guilty of misconduct in discharge of this duties;

(c) has become physically or mentally incapable of discharging duties as an Executive Chairperson or member;

(d) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(e) has, without reasonable cause, refused or failed to perform his duties for a period of not less than three months:

Provided that the Executive Chairperson or a Member shall not be removed from his office unless an opportunity of being heard is given.

(2) The Executive Chairperson may, by writing under his hand addressed to the Chairperson resign his office.

(3) Any Member, who is appointed, may, by writing under this hand addressed to the Chairperson, resign his office.

(4) Any Member, who is nominated may, by writing under his hand addressed to the Central Government, resign his office.

12. (1) The Commission shall meet at such time and at such place and shall, subject to sub-section (2) to, observe such rules of procedure with regard to transaction of its business at the meetings as may be provided by regulations:

Meetings of
Commission.

Provided that the Commission shall meet at least once in every month.

(2) If the Chairperson, for any reason, is unable to attend any meeting, the Vice-Chairperson or in his absence, the Executive Chairperson shall preside over the meeting of the Commission.

(3) All questions at a meeting of the Commission shall be decided by a majority of votes of the members present and voting, and in case when there is an equality of votes, the Chairperson or in his absence, the Vice-Chairperson or in his absence, the Executive Chairperson shall have and exercise a second or casting vote.

(4) The quorum at the meeting of the Commission shall not be less than three.

13. (1) The Commission, in order to enable it to perform its functions, may—

Officers and
employees of
Commission.

(a) with the approval of the Central Government.—

(i) appoint a Secretary, and

(ii) determine such number and category of other officers and employees,
and

(b) appoint other officers and employees so determined.

(2) The manner of recruitment of, the salary and allowances payable to, and other conditions of service of the Secretary, officers and other employees, shall be such as may be determined by the Commission by regulations.

14. (1) No act or proceeding of the Commission shall be questioned or be invalid on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Commission.

Acts and
proceedings
presumed to
be valid.

(2) No act done by any person acting in good faith as an Executive Chairpersons or a member shall be deemed to be invalid merely on the ground that he was disqualified to be an Executive Chairperson or a member or that there was any other defect in his appointment or nomination.

CHAPTER III

OBJECTS, FUNCTION AND POWERS OF COMMISSION

Objects of
Commission.

15. The objectives of the Commission shall be as follows,—

(a) to conceive, experiment upon and implement such innovative proposals in the field of education and learning as would transform the objective, contents and methods of education in the light of the vision of great pioneers and educationists of freedom movement in the country and of progressive educationists of the world and in light of the needs of the contemporary world in its march towards a future that would be in harmony with the ideals of liberty, equality and fraternity;

(b) to introduce and nurture innovations in the educational system so as to reflect perennial spiritual knowledge of the country, robust intellectuality and creativity and the ideals of man-making education, integral development of personality, synthesis of scientific realism and artistic imagination, child-centered education, value-oriented education and skill-oriented education;

(c) to study and derive lessons from the ongoing experiments in education that are taking place in the country as also elsewhere and to foster all the valuable innovative work and promote the same for larger expansion and utilization;

(d) to develop a system of education that reflects the highest ideals of Indian culture and imparts among students vibrant spirit of patriotism and deepest concern for the highest welfare of humanity, world peace and world unity;

(e) to evolve, in particular, programmes and methods of studies that would instill, among students and promote in various sectors of the educational system, devotion to the duties enumerated in article 51A of the Constitution;

(f) to promote, sustain and foster all innovative programmes related to the entire human life-style including earliest stages of pre-natal care and scaling up to the highest levels of excellence and leadership contributing to the growth of the individual, covering thus the entire gamut of the educational system appropriate to a knowledge society and the ideal of unending education.

Functions of
Commission.

16. (1) Subject to the provisions of this Act, the Commission shall conceive, experiment upon and implement such innovative proposals in the field of education and learning as would transform the objectives, contents and methods of education so as to promote the objectives of the Commission.

(2) In particular and without prejudice to the generality of the foregoing function, the Commission shall perform the following functions, namely:—

(i) to promote experimentation, designing and development of the contents of learning which would inspire pupils to foster the over-arching aims of education to be achieved by the Commission;

(ii) to promote, explore and invent new methods of pedagogy and evaluation so as to make the learning process interesting, instructive, experimental and practical;

(iii) to experiment upon the contents and methods of learning at its own innovative institutions or innovative institutions selected by it from those existing;

(iv) to promote and recommend, on the basis of results of its experiments carried out on its own innovative institutions or innovative institutions selected by it as are found by it to be appropriate to achieve the objectives of the Commission;

(v) to establish institutions (including institutions for education and training of teachers) for experimentation and implementation of the educational innovations promoted, explored and invented by it and for education and training of teachers for that purpose;

(vi) to recognise as a recognised institution, any institution for experimentation and implementation of the educational innovations recommended by it and for education and training of teachers for that purpose;

(vii) to withdraw recognition of an institution for breach of conditions of recognition after giving it an opportunity of being heard;

(viii) to establish teachers' education and training institutions of innovative education and to provide for education and training of teachers for implementation of educational innovations recommended by them;

(ix) to experiment, promote and develop the courses which facilitate students to switch over from existing system of education to the innovative system of education developed by it;

(x) to promote innovations in evaluations and to establish appropriate testing service;

(xi) to support innovations in schools and Universities and educational institutions of research, experimentation, training and extension services;

(xii) to evolve programmes of innovations in regard to the aims, methods and contents of education;

(xiii) to endeavour to enrich the present system of education so as to make it more responsive to the ideals of Indian Nationalism and Internationalism;

(xiv) to develop new system of education as supplementary or alternative to existing system of education;

(xv) to perform such other functions as are necessary for, and conducive to, the promotion of the objectives of the Commission.

17. (1) The Commission shall have the power to do all such things as are necessary for, and conducive to, the efficient performance of its functions under this Act.

Powers of
Commission.

(2) In particular and without prejudice to the generality of the foregoing power, the Commission shall have following powers, namely:—

(i) to carry out research in aims and contents of education and methods of pedagogy and evaluation;

(ii) to institute fellowships and scholarships for carrying out research in aims and contents of education and methods of pedagogy and evaluation;

(iii) to organize workshops, conferences, symposia and such other meetings to elicit ideas for educational innovations;

(iv) to have access to all the materials, including books, manuscripts, lithographs, inscriptions on walls of ancient buildings and such other places, which are available with, or is in possession of, any authority established, by or under any law within the country and is relevant to the aims and contents of education and methods of pedagogy and evaluation;

(v) to recognize or establish and conduct innovative institutions of education with special provision for innovative aims, contents and methods of teaching, learning and evaluation;

(vi) to aim at excellence in the innovative system of education; and

(vii) to grant to the students of that system, certificates equivalent to the certificates granted by the established system of education at the appropriate level;

(viii) to determine standards of courses proposed or supported by it under its functions related to innovations;

(ix) to allocate and disburse grants out of the fund—

(a) for its innovations and for innovations in other institutions;

(b) to institutions and courses (including institutions and courses for teachers' education and training) recognized by it for the purpose of developing them so as to promote experimentation and implementation of educational innovations;

(c) for grant of fellowships and scholarships to carry out research in areas relevant to the aims and objects of the Commission;

(x) to appoint Secretary and other officers and employees;

(xi) to constitute council as mentioned in section 22;

(xii) to temporarily associate persons with the Commission;

(xiii) to appoint committees for performing its functions and exercising its powers;

(xiv) to consult and obtain concurrence of the various bodies in respect of recognition and accreditation granted by the statutory boards and Universities for the purpose of arriving at equivalence of the courses, programmes and evaluation system established by it with the existing standards of education;

(xv) to conduct the processes of the consultation in the spirit of cooperation and flexibility and to enhance and encourage innovations by transcending the barriers of rigidity and obsolete methodologies;

(xvi) to promote the spirit of decentralisation, freedom of initiative and strictness in regard to discipline and maintenance of high standards; and

(xvii) to collaborate, to negotiate and to arrive at agreements and arrangements with the Government, as also with schools, Universities, centers and institutions (including autonomous institutions).

CHAPTER IV

FINANCE, ACCOUNTS, AUDIT AND ANNUAL REPORT OF COMMISSION

Fund of
Commission.

18. (1) The Commission shall have its own fund and all receipts of the Commission shall be carried thereto and all payments by the Commission shall be made therefrom.

(2) The Central Government may, after due appropriation made by Parliament by law in this behalf, grant to the Commission such sums of money as it may consider necessary.

(3) The Commission may accept grants, subventions, donations and gifts from a local authority or any individual or body, whether incorporated or not, for the purposes of this Act.

(4) The Commission may spend such sums as it thinks fit for the performance of its functions under this Act and such sums shall be treated as an expenditure payable out of the fund of the Commission.

(5) All moneys belonging to the fund of the Commission shall be kept in any corresponding new Bank specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, and in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 and approved by the Central Government for the purpose or invested in securities authorised by the Trusts Act, 1882, at the discretion of the Commission.

5 of 1970.

40 of 1980.

2 of 1982.

Budget.

19. (1) The Commission shall, by such date in each year as may be prescribed submit to the Central Government for approval a budget in the prescribed form for the next financial year showing the estimated receipts and expenditure and the sums which would be required from the Central Government during the financial year.

(2) If any sum granted by the Central Government remains wholly or partly unspent in any financial year, the unspent sum may be carried forward to the next financial year and taken into account in determining the sum to be provided by the Central Government for that year.

(3) No sum shall be expended by or on behalf of the Commission unless the expenditure is covered by provision in the budget approved by the Central Government.

20. (1) The accounts of the Commission shall be prepared and maintained in such form and in such manner as may be prescribed.

Accounts and
Audit.

(2) The Commission shall cause to be prepared for each financial year an annual statement of accounts in such form as may be prescribed.

18 of 2013.

(3) The accounts of the Commission shall be audited by an auditor duly qualified to act as an auditor of companies under section 141 of the Companies Act, 2013 and appointed by the Commission.

(4) Every auditor appointed to audit the accounts of the Commission under this Act shall have a right to demand the production of books of accounts, connected vouchers and other documents and papers, to inspect the offices of the Commission and to require such information from the Commission as he may think necessary for the performance of his duty as an auditor.

(5) The auditor shall send a copy of his report together with a copy of audited accounts to the Commission which shall, as soon as may be after the receipt of the audit report, forward the same to the Central Government.

(6) The Central Government shall, as soon as may be after the receipt of audit report under sub-section (5), cause the same to be laid before both Houses of Parliament.

21. (1) The Commission shall, during each financial year, prepare, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous financial year and copies of such report shall be forwarded to the Central Government.

Annual
report.

(2) The Central Government shall cause every such report to be laid before both Houses of Parliament within a period of six months from the date of its receipt under sub-section (1).

CHAPTER V

EDUCATIONAL INNOVATIONS COUNCILS, COMMITTEES AND FELLOWS

22. (1) There shall be constituted by the Commission, four Educational Innovations Councils as follows, namely:—

Constitution
of Educational
Innovations
Councils.

(i) a Council for innovations in programmes relating to science, technology and vocational courses;

(ii) a Council for innovations in programmes relating to languages, humanities, value-oriented education, socially useful work, art, craft and other cultural courses such as music, drama, dance;

(iii) a Council for innovations in pedagogical methods;

(iv) a Council for innovations in physical education.

(2) Each Council shall consist of the Executive Chairperson who shall be the Chairperson of that Council.

(3) The member referred to in clauses (j), (k) and (m) of sub-section (1) of section 5 shall respectively be the member-secretary of the Councils referred to in clauses (i), (ii), (iii) and (iv) of sub-section (1).

(4) Each Council shall consist of four scholars to be nominated by the Commission as members and shall be selected in such manner as may be prescribed by regulations from amongst eminent educationalists in the subjects of innovations for which the Council is constituted.

(5) The Council shall meet at such time and place and shall observe such rules of procedure with regard to transaction of its business at the meetings as may be prescribed by regulations.

(6) The Council shall perform such other functions and exercise such powers as may be prescribed by regulations.

Appointment of committees and delegation of functions and powers.

23. (1) The Commission may appoint one or more Committees consisting of not more than five of its members or members of a Council or both, for performing such of the functions or for exercising such of its powers as may be delegated by it.

(2) The Commission shall, while appointing a Committee under sub-section (1), designate one member of the Committee as the Chairperson of the Committee.

(3) The Committee shall meet at such time and place, and shall observe such rules of procedure with regard to transaction of its business at the meeting as may be determined by it.

Fellows.

24. (1) For the purpose of carrying out research in educational innovations, there shall be a scheme of fellowships which shall consist of not more than twenty-five fellows.

(2) Each fellow shall be selected by a committee appointed by the Commission for that purpose, from amongst eminent educationists.

(3) Each fellow shall,—

(a) carry out research in such subject related to educational innovations as assigned to him by the Commission;

(b) for the purpose of research in the subject assigned to him, organise, consultation groups, seminars, workshops and conferences;

(c) during his term, write a thesis on the subject assigned to him; and

(d) make himself available to the Commission for any consultation necessary in respect of the subject of research or thesis assigned to him.

(4) The term of each fellow shall be one year:

Provided that where the Commission is of opinion that in order to enable the fellow to complete his research or thesis, it is necessary so to do, it may extend his term for a period not more than one year.

(5) The salary and allowances payable to a fellow shall be such as may be determined by the Commission by regulations.

CHAPTER VI

MISCELLANEOUS

Temporary associations of persons with Commission or Council.

25. (1) The Commission may associate with itself in such manner and for such purpose, as may be determined by the regulations, any person whose assistance or advice it may require in performance of its functions.

(2) A person associated by the Commission with it under Sub-section (1) shall have the right to speak in or otherwise to take part in the meetings of the Commission but shall not have the right to vote thereat.

(3) The Commission may provide for payment of such allowances and expenses to a person associated with it under sub-section clause (1) as may be determined by regulations.

(4) The Council may associate with itself in such manner and for such purpose, as may be determined by the regulations, any person whose assistance or advice it may require in performance of its functions.

(5) A person associated by the Council with it under sub-section (1) shall have the right to speak in or otherwise to take part in the meetings of the Council but shall not have the right to vote thereat.

(6) The Council may provide for payment of such allowances and expenses to a person associated with it under sub-section (1) as may be determined by bye-laws.

26. (1) All orders and decisions of the Commission shall be authenticated by the signature of the Executive Chairperson or any other member authorised by the Commission in this behalf and all other instruments issued by the Commission shall be authenticated by the signature of the Secretary or any other officer of the Commission authorised by the Commission in this behalf.

Authentication of orders and other instruments.

(2) All decisions of a Council shall be authenticated by the signature of the Chairperson of the Council.

(3) All decisions of a Committee shall be authenticated by the signature of the Chairperson of the Committee or any other member of the Committee authorised by the Chairperson in this behalf.

27. (1) In performance of its functions under this Act, the Commission shall be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Power of Central Government to issue directions to Commission.

Provided that the Commission shall be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

28. (1) In performance of its functions under this Act, the Council shall be bound by such directions on questions of policy as the Commission may give, in writing, to it from time to time:

Power of Commission to issue directions to Councils.

Provided that the Council shall be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Commission, whether a question is one of policy or not, shall be final.

29. The Executive Chairperson, member, officer and employee of the Commission shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rules or regulations made thereunder, be deemed to be a public servant within the meaning of section 21 of the India Penal Code.

Members, officers and employees of Commission to be public servants.

30. No suit, prosecution or other legal proceeding shall lie against the Commission or any member, officer or employee of the Commission for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rules or regulations made thereunder.

31. The Commission shall furnish to the Central Government such return or other information with respect to its property or activities as the Central Government may, from time to time, require.

Returns and information.

32. (1) The Central Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to
make
regulations.

33. (1) The Commission may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act, and the rules made thereunder for enabling it to perform its functions under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the matters expressly required or allowed by this Act to be specified by regulations.

Power to
remove
difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

The status of the educational system that is prevalent today needs to be innovated. The stake-holders in the field of education have been voicing the need for such appropriate changes that may cater to the multidimensional needs of students of modern India. Such changes are possible only if the primacy of the child and youth is kept in centre of attention of the society. Reformative ideas can be fruitful only if we keep in view the holistic nature of education and indispensable interconnections between various stages of education as also the aims, methods and contents relating to nationalism, internationalism, child-centered education, value-oriented education and skill-oriented education.

Modern developments of communication technology need to be utilized so that the process of transmission of knowledge are enriched. Development of different methodologies need to be employed in order to ensure balanced growth of the Hand, Heart and Head, as also of man-making education and integral education. This necessitates harmonious blending of scientific, philosophical, aesthetic, ethical and spiritual pursuits. Educational researches conducted by pioneering educationists of India and the would need to be pooled together and fresh fields of research need to be developed, monitored and guided on a permanent basis.

The spirit of India's perennial spiritual knowledge, robust intellectuality and abundant creativity needs to percolate and inspire the renewal and updating of the curricula throughout our system of education. At the same time, the ideal of universe as a family contained in the Indian Adage "*Vasudhaiva Kutumbakam*" has to guide the international dimensions of our education system.

Hence this Bill.

VINAY P. SAHASRABUDDHE

FINANCIAL MEMORANDUM

Sub-clauses (4) and (5) of clause 7 of the Bill provides for reimbursement of travelling and other expenses to the members of Search Committee. Sub-clause 4 to 6 of clause 8, sub-clause (2) of clause 13 and sub-clause (4) of clause 24 provide for salaries and allowances of the Executive Chairperson, members other than *ex-officio* member, officers and employees and the fellows of the Commission. Clause 18 of the Bill stipulates that the fund of the Commission shall consist of all receipt of the Commission and stipulates that the Central Government shall provide grants after due appropriation by law.

Clause 25 provides for payment of allowance and expenses to the persons associated with the commission or a Council. Initially annual grant of rupees five crores needs to be provided to the Commission. In the circumstances, if the Bill enacted and provisions are brought into force would involve recurring and non-recurring expenditure from the Consolidated Fund of India to that extent.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects:—

Clause 5.— Item (g) of sub-clause (1) of this clause *inter-alia* empowers the Central Government to prescribe by rules, the manner of appointment by rotation of the Vice-Chancellor of a University as a member of the Commission.

Clause 8.— Sub-clause (4) of this clause empowers the Central Government to prescribe by rules, the terms and conditions of office of the Executive Chairperson and the members other than *ex-officio* members of the Commission.

Clause 12.— Sub-clause (1) of this clause empowers the Commission to prescribe by regulations, the time and the place of the meetings of the Commission and the rules of procedure with regard to transaction of its business at the meetings.

Clause 13.— Sub-clause (2) of this clause empowers the Commission to determine by regulations, the manner of recruitment, salary and allowances and other conditions of service of the Secretary, officers and other employees of the Commission.

Clause 16.— Item(XV) sub-clause (2) of this clause empowers the Commission to prescribe by regulations, such other functions to be performed by the Commission.

Clause 19.— Sub-clause (1) of this clause empowers the Central Government to prescribe by rules, the date for submission of budget of the Commission to the Central Government and the form in which the budget shall be prepared.

Clause 20.— (i) Sub-clause (1) of this clause empowers the Central Government to prescribe by rules, the form and the manner in which the accounts of the Commission shall be prepared and maintained;

(ii) Sub-clause (2) empowers the Central Government to prescribe by rules, the form in which the Commission shall prepare an annual statement of accounts.

Clause 21.— Sub-clause (1) of this clause empowers the Central Government to prescribe by rules, the form in which and the time at which the Commission shall prepare its annual report and submit to the Central Government.

Clause 22.—(i) Sub-clause (4) of this clause empowers the Commission to prescribe by regulations, the manner in which the four scholars for each council shall be selected amongst eminent educationalists in the subject of innovations;

(ii) Sub-clause (5) empowers the Commission to prescribe by regulations, the time and the place of meetings of the Council and the rules of procedure for transaction of business at its meetings;

(iii) Sub-clause (6) empowers the Commission to prescribe by regulation, the other functions to be performed and other powers to be exercised by the Council.

Clause 23.—(i) Sub-clause (1) of this clause empowers the Commission to delegate its functions to be performed and its powers to be exercised by the Committee as may be appointed by the Commission;

(ii) Sub-clause (2) empowers the Committee to determine the time and the place of meeting of the Committee and the rules of procedure to be observed for transaction of business at the meeting.

Clause 24.— Para (ii) of Sub-clause (4) of this clause empowers the Commission to determine by regulations the salary and allowances payable to a fellow.

Clause 25.—(i) Sub-clause (1) of this clause empowers the Commission to determine by regulations, the manner in which and the purpose for which the Commission may associate with itself, any person whose assistance or advice is required;

(ii) Sub-clause (3) empowers the Commission to determine by regulations, the allowances and expenses payable to a person associated with it;

(iii) Sub-clause (4) empowers the Commission to determine by regulations, the manner in which and the purpose for which the Council may associate itself, any person whose assistance or advice is required;

(iv) Sub-clause (6) empowers the Council to determine by bye-laws, the allowances and expenses payable to a person associated with it.

Clause 27.—This clause empowers the Central Government to issue directions to the Commission, on questions of policy as may be required in performance of its functions.

Clause 28.—This clause empowers the Commission to issue directions to the council, on questions of policy as may be required in performance of its functions.

Clause 32.—This clause empowers the Central Government to make rules, by notification in the Official Gazette, generally for carrying out the purposes of the Act.

Clause 33.—This clause empowers the Commission to make regulations, by notification in the Official Gazette, with the previous approval of the Central Government, not inconsistent with the provisions of the Act and the rules made thereunder and to provide for all or any other matters expressly required or allowed by the Act to be prescribed by regulations.

Clause 35.—Sub-clause (1) of this clause empowers the Central Government to remove difficulties, by order published in the Official Gazette, arising within two years from the date of commencement of the Act.

The delegation of legislative powers will relate to matter of default only and is of a normal character.

- | | |
|---|--|
| <p>1. <i>(1)</i> This Act may be called the Constitution (Amendment) Act, 2017.</p> <p><i>(2)</i> It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p> | <p>Short Title and commencement.</p> |
| <p>2. After article 21 A of the Constitution, the following article shall be inserted, namely:</p> <p>“21 B. <i>(1)</i> The State shall provide health protection to all citizens which shall include;</p> <p><i>(a)</i> prevention, treatment and control of diseases;</p> <p><i>(b)</i> access to essential medicines;</p> <p><i>(c)</i> maternal, child and reproductive health;</p> | <p>Insertion of new article 21B.</p> <p>Right to Health.</p> |

(d) access to basic health services;

(e) access to emergency medical treatment; and

(f) access to mental healthcare:

Provided that the State in such manner as deemed fit, shall provide the above objectives for every citizen by earmarking not less than eight per cent of the annual estimated receipts of the State for healthcare.

STATEMENT OF OBJECTS AND REASONS

Article 47 of the Indian Constitution makes it a duty of the State to raise the level of nutrition and the standard of living and to improve public health. However, the current status of healthcare in India reflects that further measures are required to be taken by the State to assure health to all citizens of the State.

The Government expenditure on health is only 1.4 per cent of Gross Domestic Product (GDP) and the public health infrastructure is inadequate and unequally distributed. The Draft National Health Policy, 2015 takes note of the fact that over 63 million persons are faced with poverty every year due to healthcare costs alone as there is no financial protection for the vast majority of healthcare needs. According to Sample Registration System (SRS) 2013, 1.26 million children under the age of five are estimated to die in our country every year due to preventable diseases.

Thus, due to lack of enforceability of Directive Principles, right to health remains unenforceable for citizens. However the Supreme Court in *Paschim Banga Khet mazdoor Samity & ors V. State of West Bengal & ors*, while widening the scope of Article 21 held that providing adequate medical facilities for the people is an obligation of the Government in a welfare state. The right to health is also internationally recognised as a fundamental human right. In 1946, the World Health Organisation stated in its Constitution that “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.” This right is also included in the Universal Declaration of Human rights and in the International Covenant on Economic, Social and Cultural rights, of which India is a signatory.

The initial Draft of National Health Policy, 2017 declared that Right to Health shall be guaranteed as an enforceable fundamental right under the Constitution in order to empower the citizens to hold the State accountable for it. The National Health Policy, 2017 requires the States to spend at least 8 per cent of their Annual Budgets on Healthcare.

Therefore, it is essential to amend the constitution of India and make right to health a fundamental right of the citizens.

Hence, this Bill.

V. VIJAYASAI REDDY

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for making the right to healthcare a fundamental right. It provides that every citizen shall have right to health protection which shall be provided by the appropriate Government. Such Bills, if enacted, by Parliament or State Legislatures will involve expenditure recurring and non-recurring from the Consolidated Fund of India as well as Consolidated Fund of the concerned State. However, it is not possible to access the actual financial expenditure likely to be incurred at this stage.

III**BILL NO. XXXI OF 2017**

A Bill to provide punishment for enforced disappearance of any person by public servants or any person subjecting a person to an enforced disappearance with the consent or acquiescence of any public servant, and for matters connected therewith incidental thereto.

WHEREAS India is a signatory to the United Nations International Convention for the Protection of All Persons from Enforced Disappearance:

AND WHEREAS it is considered necessary to ratify the said Convention and to provide for more effective implementation.

BE it enacted by the Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Enforced Disappearance Act, 2017.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent
and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) words and expressions used shall have the same meanings respectively assigned to them in the Indian Penal Code; and

45 to 1860

(b) any reference to any enactment or any provision thereof shall in any area in which such enactment or provision is not in force be construed as a reference to the corresponding law or the relevant provision of the corresponding law if any, in force in that area.

Enforced
disappearance.

3. Whoever, being a public servant or being abetted by a public servant or with the consent or acquiescence of a public servant, intentionally does any act which deprives any person of their liberty, including arrest, detention, or abduction, which is followed by a refusal to acknowledge such deprivation of liberty or concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law is said to effect an enforced disappearance:

Provided that nothing contained in this section shall apply to any deprivation of liberty or arrest or detention as aforementioned caused by any act, which is inflicted in accordance with any procedure established by law.

Explanation.—For the purposes of this section, ‘public servant’ shall, without prejudice to section 21 of the Indian Penal Code, also include any person acting in his official capacity under the Central Government or the State Government.

45 to 1860

Punishment for
enforced
disappearance.

4. Where the public servant referred to in section 3 or any person abetted by or with the consent or acquiescence of such public servant, subjects a person to enforced disappearance for whatever purpose, shall be punishable with imprisonment of either description for a term of no less than three years which may extend to ten years and shall also be liable to fine.

Punishment for
disregarding
information of
an enforced
disappearance.

5. Whoever, being a public servant, was aware of or consciously disregarded information of any enforced disappearance effected by subordinates under his effective authority, and failed to submit the matter to the competent authority for investigation and prosecution, shall be punishable for a term of no less than one year which may extend to ten years and shall also be liable to fine.

STATEMENT OF OBJECTS AND REASONS

India signed the International Convention for the Protection of All Persons from Enforced Disappearance (as drafted by the United Nations General Assembly on 29th June, 2006) on 6th February, 2007. To ratify the Convention, it is necessary to enable legislation to reflect the definition and punishment for “enforced disappearance”, and bring domestic laws in conformity with the Convention.

2. The legislation fulfils India's commitment to the United Nations, to the Universal Declaration of Human Rights and to a legal system that offers remedies for human rights violations by the State.

3. Enforced disappearances are human rights violations which not only cause an unlawful deprivation of liberty of the individual, but cause psychological, economic and social distress to the families of the “disappeared” individual who are unaware of the fate of the person. The legislation recognises, as in the Convention, the “right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person, and the right to freedom to seek, receive and impart information to this end.”

4. India's history is marred with violations of human rights and enforced disappearances. A Human Rights Watch report in 2007 noted the revelation of 6,000 secret cremations by the police in just one of the erstwhile districts of Punjab. A report by Association of the Parents of Disappeared Persons indicated that more than 8,000 people have gone missing under suspicious circumstances in Jammu and Kashmir between 1989 and 2008. As regularly reported, the incidents are not limited to disturbed areas but affect people of all ages and professions in the States of Andhra Pradesh, Gujarat, Maharashtra, Uttar Pradesh, Bihar, Rajasthan and Orissa. It is necessary to enable legislation that prevents future enforced disappearances, and protects the citizens from such crimes.

5. The proposed legislation, *inter alia*, defines the expression “enforced disappearance”, and provides punishment for those involved in subjecting an individual to an enforced disappearance.

6. The Bill seeks to achieve the above objects.

V. VIJAYASAI REDDY

IV**BILL NO. XXIX OF 2017**

A Bill to provide punishment for torture inflicted by public servants or any person inflicting torture with the consent or acquiescence of any public servant, and for matters connected herewith or incidental thereto.

WHEREAS India is a signatory to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

AND WHEREAS it is considered necessary to ratify the said Convention and to provide for more effective implementation.

BE it enacted by the Parliament in the Sixty-eighth Year of the Republic of India as follow:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Prevention of Torture Act, 2017.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

45 of 1860.

(a) words and expressions used in this Act shall have the same meanings respectively assigned to them in the Indian penal Code; and

(b) any reference in this Act to any enactment or any provision thereof shall in any area in which such enactment or provision is not in force be construed as a reference to the corresponding law or the relevant provision of the corresponding law if any, in force in that area.

3. Whoever, being a public servant or being abetted by a public servant or with the consent or acquiescence of a public servant, intentionally does any act for the purposes to punish or to obtain information from any person, whether in police custody or otherwise, which causes,—

Torture.

(i) grievous hurt to any person; or

(ii) danger to life, limb or health (whether mental or physical) of any person, is said to inflict torture:

Provided that nothing contained in this section shall apply to any pain, hurt or danger as aforementioned caused by any act, which is inflicted in accordance with any procedure established by law.

45 of 1860.

Explanation.—For the purposes of this section, ‘public servant’ shall, without prejudice to section 21 of the Indian Penal Code, also include any person acting in his official capacity under the Central Government or the State Government.

4. Where the public servant referred to in section 3 or any person abetted by or with the consent or acquiescence of such public servant, tortures any person—

Punishment
for torture.

(a) for the purpose of extorting from him or any other person interested in him, any confession or any information which may lead to the detection of an offence or misconduct;

(b) for the purpose of punishing him for any act; or

(c) on the ground of his religion, race, place of birth, residence, language, caste or community or any other ground whatsoever,

shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to ten years and shall also be liable to fine.

STATEMENT OF OBJECTS AND REASONS

India signed the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (as adopted by the United Nations General Assembly on 9th December, 1975) on 14th October, 1997. To ratify the Convention, it is necessary to enact any enabling legislation to reflect the definition and punishment for “torture”, and bring domestic laws in conformity with the Convention.

2. The proposed legislation, *inter alia*, defines the expression “torture”, and provides punishment for those involved in the incidents of torture.

3. The legislation fulfils India’s commitment, as confirmed to the United Nations, to reaffirm that “torture and other cruel, inhuman or degrading treatment or punishment are prohibited and constitute serious violations of human rights.”

4. According to the National Crime Records Bureau, as many as 308 people died in police custody between 2011 and 2013 but less than forty per cent of these deaths led to a case being registered. By providing punishment for the violation of these human rights, the legislation strengthens the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment.

5. Out of 170 signatories to the United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, India remains one of the only eight countries yet to ratify the Convention. Ratifying the Convention reaffirms the Government of India’s commitment to the protection of basic universal human rights.

6. The One Hundred and Fifty Second Report of the Law Commission on ‘Custodial Crimes’ (1994) had also recommended changes to the law to prevent custodial crimes, including torture.

7. The Supreme Court, in 2017, observed that India’s efforts to extradite suspects from abroad are impeded due to the fact that India does not have an anti-torture law. The legislation, once enacted, will expedite India’s extradition attempts and the due process of law.

8. The Bill seeks to achieve the above objects.

V. VIJAYASAI REDDY

V

BILL NO. XXXIV OF 2017

THE FLOOD AND DROUGHT CONTROL BILL, 2017

A Bill to provide for the setting up of a National Flood and Drought Control Board to control flood and drought and for matters connected therewith and incidental thereto

WHEREAS entry 56 of List I—Union List of the Seventh Schedule to the Constitution provides for regulation and development of Inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest;

AND WHEREAS a lot of havoc is caused by floods and drought every year in almost all parts of the country;

AND WHEREAS it is expedient in the public interest to take effective measures for flood control and checking drought.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Flood and Drought Control Act, 2017.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such a date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires:—

(a) “Board” means the National Flood and Drought Control Board established under section 3 of this Act; and

(b) “prescribed” means prescribed by rules made under this Act.

Establishment
of the
National
Flood and
Drought
Control
Board.

3. (1) The Central Government shall establish, by notification in the Official Gazette, a Board to be known as the National Flood and Drought Control Board for performing functions assigned under this Act.

(2) The Head Office of the Board shall be at National Capital Territory of Delhi or at such other place, as the Central Government may by notification in the Official Gazette establish.

(3) The Board shall consist of,—

(a) a Chairperson, who shall be an expert dealing with flood and drought control, to be appointed by the Central Government; and

(b) a member each from every State Government and Union Territory, who shall be expert on flood control measures and drought management, to be nominated by the Central Government in such manner as may be prescribed.

(4) The salary and allowances payable to and other terms and conditions of service of the Chairperson and other Members of the Board shall be such as may be prescribed.

(5) The Central Government shall make available to the Board such officers and staff as may be required for efficient functioning of the Board.

Functions of
Board.

4. The functions of the Board shall be,—

(a) to identify areas which are prone to floods and droughts;

(b) to suggest measures for flood and drought control;

(c) to make a time bound plan for inter-linking of rivers which are prone to floods with the ones which are not;

(d) to suggest measures for the development of land in areas which are prone to floods and drought;

(e) to install flood forecasting system in such areas which are prone to floods and warn the inhabitants in those areas to move out to safer places in case floods and droughts are forecast in the area;

(f) advise the State Governments on the preventive measures and rescue and rehabilitation during floods; and

(g) advise the State Governments for proper storage of rain water and construction of dams.

Ratio of
Expenditure
to be borne by
the Central
and State
Government.

5. The expenditure involved in the flood and drought control measures as suggested by the Board shall be borne by the Central Government and the State Governments in such ratio, as may be determined by the Board.

Recommendations
of the Board.

6. (1) The Board shall from time to time make recommendations to the Central Government on the flood and drought control measures.

(2) The Central Government shall implement, as far as practicable, all the recommendations of the Board:

Provided that where it is felt that any recommendation of the Board cannot be implemented due to any reason, the Central Government may, for the reasons to be recorded in writing inform the Board, accordingly.

7. The Board shall prepare once in every financial year, in such form as may be prescribed, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government which shall cause the same to be laid before each House of Parliament.

Annual
Report.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

India is the land of many great rivers. Floods occur in almost all river basins of the country and at the same time many parts of the country are affected by drought. The water resources of the country are not being fully utilized. Every year there are floods which cause immense loss of life and property and the same can be said about drought. Whereas in some parts of the country there are floods, there is drought in other parts. The national resources, flora and fauna are damaged by floods. The problem, therefore, needs to be addressed urgently to mitigate the effects of floods and droughts. Therefore, it is expedient in public interest to evolve an integrated and scientific approach to the flood control and dealing with droughts and to draw out a national plan fixing priorities for implementation of strategies in the future. The Bill seeks to provide for the setting up of a National Flood and Droughts Control Board to suggest measures to prevent and control floods and to mitigate droughts in the country.

Hence this Bill.

DR. T. SUBBARAMI REDDY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a National Flood and Drought Control Board. Clause 5 provides that the expenditure on flood control measures suggested by the Board shall be borne by the Central Government and the State Governments. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of the respective State and the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one hundred crore per annum. A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill gives power to the Central Government to frame rules for carrying out the purposes of the Bill. The rules will relate to matters of administrative details and procedure and as such the delegation of legislative power is of a normal character.

VI

BILL NO. XXXV OF 2017

A Bill to regulate the functioning of play schools and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Play Schools (Regulations) Act, 2017.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such a date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appointed day" means the date of the commencement of this Act;

(b) "appropriate Government" means, in the case of a State, the Government of that State and in all other cases, the Central Government;

(c) "authority" means the Play Schools Education Authority constituted by appropriate Government under section 3;

(d) "play school" means any elementary or kindergarten school or formative centre or institution including private schools imparting pre-school or nursery education to children before their enrolment in the first standard; and

(e) "prescribed" means prescribed by rules under the Act.

3. (1) With effect from the appointed day, the appropriate Government shall, by notification in the Official Gazette, constitute an authority to be known as the Play Schools Education Authority to regulate within its territorial jurisdiction, the functioning of play schools and conditions of service of teachers and other staff working in such schools.

Constitution
of the Play
Schools
Education
Authority.

(2) The authority shall consist of,—

(a) a Chairperson to be appointed by the appropriate Government; and

(b) a maximum of ten members to be appointed by the appropriate Government:

Provided that the number of members shall, in no case, be less than six at any given time.

(3) The Chairperson and other members referred to in sub-section (2) shall be chosen from amongst the persons who have special knowledge and at least ten years of experience in the field of education.

(4) The term of office and conditions of service of the Chairperson and the other members shall be such as may be prescribed.

(5) The appropriate Government shall appoint such number of officers and staff to assist the authority, as it, considers necessary, for its efficient and effective functioning.

4. (1) It shall be the duty of the authority to regulate the functioning of play schools and conditions of service of teachers and other staff, under its jurisdiction.

Function of
the Authority.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the authority may,—

(a) fix the student-teacher ratio;

(b) put a ceiling on the tuition fee and other charges;

(c) fix the hours of duty of teachers and other staff;

(d) monitor the funds collected by the schools;

(e) suggest the type of infrastructure to be maintained and the safety conditions to be ensured;

(f) prescribe curriculum and extra-curricular activities;

(g) require setting up of a grievance redressal mechanism; and

(h) perform such other functions as may be prescribed.

5. The Authority may, with the previous approval of the appropriate Government, make regulations consistent with this Act for regulating minimum qualifications for recruitment and the conditions of service of teachers of play schools.

Power to
make
regulation.

6. The salary, allowances, medical facilities, pension, gratuity, provident fund and other benefits of teachers of play school shall not be less than those of teachers of corresponding status in schools run by the appropriate Government.

Salary,
allowances
and other
benefits to
teachers.

Fee and other
Charges.

7. No play school shall charge a tuition fee or collect other charges or receive payments, in excess of the amounts specified by the authority:

Provided that every play school shall obtain prior approval of the authority for charging tuition fee or collecting other charges, exceeding the amounts specified by the authority.

Closing down
of Play
Schools.

8. If the appropriate Government, on receipt of a report from the authority, is satisfied that the managing committee of any play school has failed to perform its duties imposed on it by or under this Act or any rules or regulations made thereunder and it is expedient in the interest of the school education to close down such school, it may, after giving reasonable opportunity of being heard to the managing committee of the school, order closing down of such school for such period as it may consider appropriate.

Act not to be
in derogation
of other laws.
Power to
remove
difficulties.

9. The provisions of this Act shall be in addition to and not in derogation of any other law or rules made thereunder for the time being in force.

10. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may be necessary for removing the difficulty:

Provided that no order shall be made under this sub-section after the expiry of two years from the appointed day.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Power to
make rules.

11. (1) The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

The pre-schooling and early childhood care is predominantly prevalent in the private sector. The play schools have mushroomed all over the country, especially in urban areas. Foundation of mental and physical development of little children is laid in play schools. In the absence of any regulatory framework, complaints of parents and non-Government organisations are not addressed by these schools. As play schools are laying foundation for the child's future, they should be governed by an appropriate legislation.

The Bill, therefore, seeks to regulate the functioning of play schools in the country not only to ensure quality education and guidance in play schools but also to protect the guardians from unnecessary exploitation.

Hence this Bill.

DR. T. SUBBARAMI REDDY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall, within its territorial jurisdiction, constitute Play Schools Education Authority to regulate the functioning of the play schools. The expenditure relating to the States shall be borne out of the Consolidated Funds of the respective States. However, the expenditure in respect of Union territories shall be borne out of the Consolidated Fund of India. It is estimated that sum of rupees two crores will be involved as recurring expenditure per annum from the Consolidated Fund of India. A non-recurring expenditure to the tune of rupees fifty lakh is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Play Schools Education Authority to regulate the minimum qualifications or recruitment and conditions of teachers and other staff of play schools. Clause 11 empowers the Central Government to make rules for carrying out the purposes of the Bill. The matters in respect of which rules and regulations may be made are matters of administrative details and procedure and as such, the delegation of Legislative powers is of a normal character.

VII

BILL NO. XLI OF 2017

A Bill to make provisions in relation to bail in connection with criminal proceedings in the country and to ensure protection of personal liberty of the citizens and matter connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Bail Act, 2017.
- (2) It extends to the whole of India, except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

Short title,
extent and
commence-
ment.

Definitions.

2. (1) In this Act, unless the context otherwise requires, "bail" means—

(i) bail grantable in or in connection with proceedings for an offence to a person who is accused or convicted of the offence, or

(ii) bail grantable in connection with an offence to a person who is under arrest for the offence or who has reason to believe that he may be arrested on accusation of having committed any offence.

(2) Words and expressions used and not defined in this Act but defined in the Code of Criminal Procedure, 1973 or the Indian Penal Code, 1860 or the Indian Evidence Act 1872 shall have the same meanings respectively assigned to them in those codes and the Act.

2 of 1974.
45 of 1860.
1 of 1872.

Surrender before the court.

3. Where an enactment (whenever passed) which relates to bail refers to the person bailed, appearing before a Court, it shall be construed unless the context otherwise requires as referring to his surrendering himself to the custody of the Court under this Act.

Reference to other laws.

4. Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Act.

CHAPTER II

INCIDENTS OF BAIL

Duty to surrender to custody.

5. A person accused of committing bailable offences or non-bailable offences when granted bail shall be under a duty to surrender to custody, and that duty is enforceable in accordance with the provisions of this Act.

Furnishing of surety by a person granted bail.

6. A person, when granted bail, may be required to furnish surety before release on bail, is cases—

(a) where he is accused of committing bailable offences except if he is declared indigent by the Court.

Explanation.— If a person is unable to furnish bail bond within a week of the date of his arrest, it shall be sufficient ground for the officer or the Court to presume that he is an indigent person for the purposes of this section.

(b) where accused of committing non-bailable offences.

Compliance with conditions by a person granted bail.

7. A person who is accused of committing non-bailable offence may be required by court to comply, after release on bail, with following conditions—

(i) that such person surrenders to the custody;

(ii) that such person shall not commit an offence similar to the offence of which he is accused, or suspected of the commission;

(iii) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so facts to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence;

(iv) that such person makes himself available for the purpose of enabling inquiries or a report to be made and also to assist to deal with him for the offence;

(v) such other conditions as it consider necessary in the interest of justice.

Explanation.— Application of these conditions shall be limited in cases where a person is accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under Chapter VI, Chapter XVI or Chapter XVII of the Indian Penal Code or abetment of, or conspiracy or attempt to commit, any such offence.

45 of 1860.

8. If it appears to an officer of Court at any stage of investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non-bailable offence, but that there are sufficient grounds for further enquiry into his guilt, subject to the discretion of such officer or Court, the accused shall be released on bail and the condition imposed by the Court shall be relaxed upon, such officer of Court recording the reasons for release on bail or relaxation of conditions in writing .

Releasing of an accused on bail by Court.

9. Where a person has, during the period of investigation, inquiry or trial under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law), undergone detention for a period extending upto one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties:

Release of an accused by the Court on personal bond, etc.

Provided that the Court may, after hearing the Public Prosecutor and for the reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail instead of personal bond with or without sureties:

Provided further that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation.—In computing the period of detention under this section for granting bail the period of detention passed due to delay in proceeding caused by the accused shall be excluded.

CHAPTER III

BAIL FOR ACCUSED PERSONS AND OTHERS

10. When the person is arrested or detained for a bailable offence without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in custody of such officer or at any stage of the proceeding before such Court to furnish bail bond, such person shall be released on bail:

Granting of bail in case of bailable offences.

Provided where a person has failed to comply with the conditions of the bail bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent occasion in the same case he appears before the Court or is brought in custody.

11. When the person is arrested or detained for a bailable offence without warrant by an officer in charge of a police-station or appears or is brought before a Court other than a High Court or Court of Session, he may be released on bail except—

Granting of bail in case non-bailable offences.

(i) If there appears reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;

(ii) If the offence committed by the accused is cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a cognizable offence punishable with imprisonment for three years or more but not less than seven years:

Provided that persons referred to in clauses (i) and (ii) of section 11 shall be released on bail by the Court if such person is under the age of sixteen years or is a woman or is sick or infirm:

Provided further that Court may also direct that a person referred to in clause (ii) of section 11 be released on bail if it is satisfied that it is just and proper to do so for any other special reason:

Provided also that the mere fact that an accused person may be required for being identified by witnesses during investigation shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court.

No bail in case of an offence punishable with death etc.

12. No person shall, if the offence alleged to have been committed by him is punishable with death, imprisonment for life, or imprisonment for seven years or more be released on bail by the Court under section 11 without giving an opportunity of hearing to the Public Prosecutor.

Reasons to be recorded before bail.

13. An officer or a Court releasing any person on bail under section 11, shall record in writing his or its reasons or special reasons for so doing.

Committing a person to custody.

14. Any Court which has released a person on bail under section 11, if it considers necessary so to do, may direct that such person be arrested and commit him to custody.

Trial in case of non-bailable offences.

15. If in any case triable by a magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during whole of the said period, be released on bail to the satisfaction of the magistrate, unless for reasons to be recorded in writing, the magistrate otherwise directs.

Conclusion of trial.

16. If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered.

Execution of bail bonds with sureties.

17. Before conclusion of trial and before disposal of appeal, the Court trying the offence or the Appellate Court, as the case may be, shall require the accused to execute bail bonds with sureties, to appear before the higher Court as and when such Court issues notice in respect of any appeal or petition filed against the judgement of the respective Courts and such bail bonds shall be in force for six months.

Exception—This section shall not apply once a person has been acquitted by the trial Court.

Explanation.—Once the person has been acquitted by the Court trying the offence he shall released henceforth without any bail or sureties even if any appeal to the higher Court is pending.

Anticipatory bail for non-bailable offence.

18. (1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest, he shall be released on bail, and that Court may, after taking into consideration, *inter alia*, the following factors, namely—

(i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(iii) the possibility of the applicant to flee from justice; and

(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested,

either reject the application forthwith or issue an interim order for the grant of bail.

(2) Where the Court grants an interim order under sub-section (1) of section 18, it shall forthwith cause a notice being not less than seven days notice, together with a copy of such order to be served on the Public Prosecutor and the Superintendent of Police, with a view to give the Public Prosecutor a reasonable opportunity of being heard when the application shall be finally heard by the Court.

Explanation.—The final order made on an application for direction under sub-section (1) of section 18, shall not be construed as an interlocutory order for the purposes of this Act.

(3) When the High Court or the Court of Session makes a direction under sub-section (1) of section 18, it shall include following conditions:—

(i) that the person shall make himself available for interrogation by a police officer as and when required;

(ii) that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed by Section 10, as if the bail were granted for bailable offences.

(4) if such person is thereafter arrested without warrant by an officer-in-charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to furnish bail, he shall be released on bail, and if a Magistrate taking cognizance of such offence decides that a warrant should be issued, in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub-section (1) of section 18.

(5) If an application under this section has been made by any person either to the High Court or the Court of Session, no further application by the same person shall be entertained by either of them.

19. A High Court or Court of Session may direct—

Direction for
release of a
person on bail.

(a) that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in section 10, may impose any condition which it considers necessary for the purposes mentioned in Section 10.

(b) that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified:

Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons to be recorded in the writing, of the opinion that it is not practicable to give such notice.

20. (1) Whenever any person is arrested and detained in custody and it appears that the investigation cannot be completed within the period of twenty-four hours and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

Detention of a
person in
custody.

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that—

(a) the Magistrate may authorise the detention of the accused person, otherwise than in the custody of the police, beyond the period of fifteen days; if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding,—

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) sixty days, where the investigation relates to any other offence and;

(iii) on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Section 10 and 11 of this Act;

(b) no Magistrate shall authorise detention in any custody under this section unless the accused is produced before him;

(c) no Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.

Explanation I.—For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in paragraph (a), the accused shall be detained in custody so long as he does not furnish bail;

Explanation II.—If any question arises whether an accused person was produced before the Magistrate as required under paragraph (b), the production of the accused person may be proved by his signature on the order authorising detention.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, where a Judicial Magistrate is not available, transmit to the nearest Executive Magistrate, on whom the powers of a Judicial Magistrate or Metropolitan Magistrate have been conferred, a copy of the entry in the diary hereinafter prescribed relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate and thereupon such Executive Magistrate, may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term not exceeding seven days in the aggregate; and, on the expiry of the period of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in paragraph (a) of the proviso to sub-section (2):

Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted to him by the officer in charge of the police station or the police officer making the investigation, as the case may be.

(4) A Magistrate authorising detention in the custody of the police under this section shall record his reasons for so doing.

(5) Any Magistrate other than the Chief Judicial Magistrate making such order shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate.

CHAPTER IV

CANCELLATION OF BAIL AND FOREFEITURE OF BONDS

Cancellation
of Bail in
cases of
bailable
offences.

21. (1) When a person has failed to comply with the conditions of the bail-bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent occasion in the same case he appears before the Court or is brought in custody and any such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty as prescribed under this Act:

Provided the bail shall not be refused nor penalty shall be imposed on the accused if the accused is able to prove before the Court that he had reasonable cause not to comply with the conditions of bail:

Provided further that the bail shall not be refused to the person accused if he has taken leave of the Court not to comply with the conditions imposed by the Court.

(2) A High Court or Court of Session may direct that any person who has been released on bail under section 10 be arrested and commit him to custody:

Provided that High Court or the Court of Session shall give adequate notice of hearing of the application of cancellation of bail to the accused.

22. (1) Whenever a person is found to be incapable of entering defence by reason of unsoundness of mind or mental retardation, the Magistrate or Court, as the case may be shall, whether the case is one in which bail may be taken or not, order release of such person on bail:

Release of a person of unsound mind on bail.

Provided that the accused is suffering from unsoundness of mind or mental retardation which does not mandate in-patient treatment and a friend or relative undertakes to obtain regular out-patient psychiatric treatment from the nearest medical facility and to prevent from doing injury to himself or to any other person.

(2) If the case is one in which, in the opinion of the Magistrate or Court, as the case may be, bail cannot be granted or if an appropriate undertaking is not given, he or it shall order the accused to be kept in such a place where regular psychiatric treatment can be provided, and shall report the action taken to the State Government:

Provided that no order for the detention of the accused in a mental health establishment shall be made otherwise than in accordance with such rules as the State Government may have made under the Mental Healthcare Act, 2017.

10 of 2017.

(3) Whenever a person is found to be incapable of entering defence by reason of unsoundness of mind or mental retardation, the Magistrate or Court, as the case may be, shall keeping in view the nature of the act committed and the extent of unsoundness of mind or mental retardation, further determine if the release of the accused can be ordered:

Provided that—

(a) if on the basis of medical opinion or opinion of a specialist, the Magistrate or Court, as the case may be decide to order discharge of the accused, such release may be ordered, if sufficient security is given that the accused shall be prevented from doing injury to himself or to any other person.

(b) If the Magistrate or Court, as the case may be, is of opinion that discharge of the accused cannot be ordered, the transfer of the accused to a residential facility for persons of unsound mind or mental retardation may be ordered wherein the accused may be provided care and appropriate education and training.

23. The Court other than the High Court or Court of Session may exercise its power to cancel the bail granted by it under section 11 and to recommit the accused to jail under any one or more of the following circumstances, namely:—

Cancellation of Bail in cases of non-bailable offences.

(i) while on bail the accused commits the same offence for which he is being tried or has been convicted;

(ii) if he hampers investigation of the case;

(iii) if he tampers with the evidence and threatening the witness;

(iv) if he runs away to a foreign country or goes underground or beyond the control of his sureties;

(v) if he commits acts of violence, in revenge, against the police and the prosecution witnesses:

Provided that Court shall assign reasons before cancellation of bail.

24. (1) Where a bond under this Act is for appearance, or for production of property, before a Court and it is proved to the satisfaction of that Court or of any Court to which the case has subsequently been transferred, that the bond has been forfeited, or where, in respect of any other bond under this Act, it is proved to the satisfaction of the Court by which the bond was taken, or of any Court to which the case has subsequently been

Forfeiture of bond.

transferred, or of the Court of any Magistrate of the first class, that the bond has been forfeited.

The Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof or to show cause why it should not be paid.

Explanation.— A condition in a bond for appearance, or for production of property, before a Court shall be construed as including a condition for appearance, or as the case may be, for production of property before any Court to which the case may subsequently be transferred.

(2) If sufficient cause is not shown and or the penalty is not paid, the Court may proceed to recover the same as if such penalty were a fine imposed by it under this Act:

Provided that where such penalty is not paid and cannot be recovered in the manner aforesaid, the person so bound as surety shall be liable, by order of the Court ordering the recovery of the penalty, to imprisonment in civil jail for a term which may extend to six months.

(3) The Court may, after recording its reasons for doing so, remit any portion of the penalty mentioned and enforce payment in part only;

(4) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond;

(5) Where any person who has furnished security and is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved.

Cancellation
of bond and
bail bond.

25. Without prejudice to the provisions of section 24, where a bond under this Act is for appearance of a person in a case and it is forfeited for breach of a condition—

(a) the bond executed by such person as well as the bond, if any, executed by one or more of his sureties in that case shall stand cancelled; and

(b) thereafter no such person shall be released only on his own bond provided that if the Police Officer or the Court, as the case may be, for appearance before whom the bond was executed, is satisfied that there was no sufficient cause for the failure of the person bound by the bond to comply with its condition:

Provided that subject to any other provision of this Act he may be released in that case upon the execution of a fresh personal bond for such sum of money and bond by one or more of such sureties as the Police Officer or the Court, as the case may be, thinks sufficient.

Insolvency of
Death of a
Surety.

26. When any surety to a bond under this Act becomes insolvent or dies, or when any bond is forfeited under the provisions of section 24, the Court by whose order such bond was taken, or a Magistrate of the first class may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order.

Execution of a
bond by
minor.

27. When the person required by any court, or officer to execute a bond is a minor, such court or officer may accept, in lieu thereof, a bond executed by a surety or sureties only.

Orders to be
appealable.

28. All orders passed under section 24 shall be appealable,—

(i) in the case of an order made by a Magistrate, to the Session Judge;

(ii) in the case of an order made by a Court of Session, to the Court to which an appeal lies from an order made by such Court.

29. The High Court or Court of Session may direct any magistrate to levy the amount due on a bond for appearance or attendance at such High Court or Court of Session.

Direction to
Magistrate to
levy amount.

CHAPTER V

MISCELLANEOUS

30. (1) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police officer or Court, as the case may be thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court, as the case may be.

Bonds and
sureties.

(2) Where any condition is imposed for the release of any person on bail, the bond shall also contain that condition.

(3) If the case so requires, the bond shall also bind the person released on bail to appear when called upon at the high Court, Court of Session or other Court to answer the charge.

(4) For the purpose of determining whether the surety is fit or sufficient, the Court may accept affidavits as proof of the facts contained therein relating to the financial condition, character, previous conviction if any and his proximity, whether in point of kinship, place of residence or otherwise to the person for whom he is to be surety, or, if it considers necessary, may either, hold an inquiry itself or cause an inquiry to be made by a Magistrate subordinate to the Court, as to such sufficiency.

(5) Every person standing surety to an accused persons for his release on bail, shall make a declaration before the Court as to the number of persons to whom he has stood surety including the accused, giving therein all relevant particulars.

(6) The amount of every bond executed under this Act shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(7) The High Court or Court of Session may direct that the bail required by a police officer or Magistrate be reduced.

(8) If, through mistake, fraud, or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

(9) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(10) On such application being made, the magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(11) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to jail.

31. (1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and, when he is in jail, the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the order, shall release him.

Release of a
person on
bail.

(2) Nothing in this section, section 10 or section 11 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

Repeal and
savings.

32. (1) Chapter XXXIII of the Code of Criminal Procedure, 1973 is hereby repealed (hereinafter referred to as repealed provisions).

2 of 1974.

(2) Notwithstanding such repeal,—

(a) anything done or any action taken or purported to have been done or taken, including any direction given or any proceeding taken or any penalty, punishment, forfeiture or fine imposed under the repealed provisions shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act; and

(b) any principal or rule of law or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognized or derived by, in or from, the repealed provisions.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice the general application of section 6 of the General Clauses Act 1897 with regard to the effect of repeal.

10 of 1897.

Power to
make rules.

33. The Central Government may, by notifications in the official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

India is a welfare State. It is necessary to make provision in relation to bail in connection with criminal proceedings in India to ensure that freedom and personal liberty of any citizen is not affected except in accordance with procedures established by law.

Bail relates to citizens' right to life and liberty, it is expedient to enact a separate legislation to address all issues related to bail and therefore a separate legislation is required.

It is necessary for the person's life and liberty be protected and respected by the state by all means and through all stages of a judicial process involving the due process of law.

It is imperative that the law operates in a manner that the best interest and well-being of the citizens of the country are protected.

The recommendations made by Law Commissions on bail related provisions are required to be incorporated within the statutory framework.

Hence this Bill.

SUKHENDU SEKHAR RAY

FINANCIAL MEMORANDUM

The Bill provides certain procedures to be followed within a legal framework so as to deal with all matters connected with or incidental to bail which may or may not be granted to an accused person and as such no further expenditure from the Consolidated Fund of India shall be incurred afresh other than the manner in which the expenses are hitherto being incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 33 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VIII**BILL NO. XLII OF 2017**

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2017.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 366 of the Constitution, after clause (5), the following clause shall be inserted, namely:—

Amendment
of article 366.

'(5A) "consultation" means the action or process of formally consulting or discussing with another in a merely consultative, advisory and non-binding manner.'

STATEMENT OF OBJECTS AND REASONS

Certain terms in the Constitution are not defined leading to leeway in interpretation causing substantial questions of law. Such ambiguity in the law has contributed to the question regarding the appointment of judges to the higher judiciary in India. It is for this reason that the term "consultation" requires to be defined in the Constitution by way of amendment of article 366 that defines certain terms used in the Constitution. Such definition will not only remove ambiguity in the definition of the term, but restore the constitutional scheme in the appointment of judges to higher judiciary by restoring the role of the Executive Branch in the appointment process of judges and reaffirming the primacy of Parliament in the domain of legislation in the nation that has been weakened by judicial overreach in the domain of judicial appointments.

The term "consultation" appears in a number of articles in the Constitution, mainly in articles 124 and its analogous article 217 and articles 127 and 222. Herein the matters under question allow for the consultation of other parties by the President of India or the Governor of the State, as the case may be, in the discharge of his duties. The President and Governor are bound by the opinions of others as delivered explicitly by the Constitution under article 103(2) and its analogous article 192(2).

Articles 103(2) and its analogous article 192(2) incorporate the wording "the President (Governor) shall obtain the opinion of the Election Commission and shall act according to such opinion". Hence indicating the intent of the framers of the Constitution to bind the President and the Governor's actions to the advice they have received on the matter detailed in the relevant articles. While exercising the powers under the articles 103(2) and 192(2), the President and the Governor respectively are not required to act on the aid and advice of the respective Council of Ministers.

Article 124 and its analogous article 217 and articles 127, 143, 146(1) and 222 of the Constitution utilise the word "consultation", hence indicating that the framers of the Constitution did not have the intention to bind the President and the Governor's actions to the advice they have received on the matter detailed in the relevant articles. They sought only to ensure that the President or Governor appropriately consulted the relevant authorities or institutions in discharging their duties, therefore undertaking the action to the best of their knowledge, even allowing them to disregard the recommendations received during the consultation process. This is essential as it ensures that the highest executive functionary of the nation and states, respectively, has flexibility in the discharge of duties of his office, while ensuring that he received sound non-binding guidance on matters of constitutional and national importance and ensuring that all stakeholders were represented in the consultation process. The term "consultation" mentioned in the Constitution should be given the same meaning homogeneously throughout the Constitution and different meaning cannot be assigned for different provisions of the Constitution.

The judicial pronouncements with regard to article 124 made the recommendations binding upon the President which is not in keeping with the constitutional scheme. Similar judicial pronouncements can alter the meaning of other articles of the Constitution, risking the constitutional fabric and framework of the nation. Similar arguments can be utilised with respect to article 143, making the court's recommendations to the President binding on questions of law, not allowing the President to exercise his authority with the flexibility accorded to him and disturbing the constitutional scheme. Similarly under article 146(1), the recommendations of the Union Public Service Commission may be made binding upon the President for the appointment of officers and servants to the Supreme Court and analogously for the State, hence going against the constitutional scheme.

As detailed above, there is a requirement for defining the term "consultation" to ensure that the constitutional scheme is not disturbed due to ambiguity of the definition of the term. This will also ensure that the principle of separation of powers, while not enumerated in the Constitution, but upon which it is based, will be maintained. This will also ensure that the appointment process for higher judiciary in the nation is maintained and kept in sync with the constitutional scheme and constitutional text as envisioned by the framers of the Constitution. The need for the same has been elaborated upon below.

The Judges of the Supreme Court are appointed under clause (2) of article 124 of the Constitution and the Judges of the High Courts are appointed under clause (1) of article 217 of the Constitution, by the President of India. The Ad-hoc-Judges and retired Judges of the Supreme Court are appointed under clause (1) of article 127 and article 128 of the Constitution respectively. The appointment of Additional Judges and Acting Judges for the High Court is made under article 224 and the appointment of retired Judges for sittings of the High Courts is made under article 224A of the Constitution. The transfer of Judges from one High Court to another High Court is made by the President of India after consultation with the Chief Justice of India under clause (1) of article 222 of the Constitution.

The Supreme Court in the matter of the Supreme Court Advocates-on-Record Association vs. Union of India in the year 1993, and in its Advisory Opinion given in the year 1998 in the Third Judges' case on a reference being made to the Supreme Court by the then President of India under his constitutional powers, had interpreted clause (2) of article 124 and clause (1) of article 217 of the Constitution with respect to the meaning of "consultation" as "concurrence". Consequently, a Memorandum of Procedure for appointment of Judges to the Supreme Court and High Courts was formulated known as the "collegium system", and is presently being followed for such appointments. Pertinently, the said collegium system does not find mention either in the original Constitution or in any successive amendments thereto. This was in direct contravention of the Court's earlier decision in the matter. In the case of S.P. Gupta (December 30, 1981) also known as the "First Judges Case", it declared that the "primacy" of the recommendations of the Chief Justice of India to the President can be refused for cogent reasons. This had brought a paradigm shift in favour of the executive having primacy over the judiciary in judicial appointments for the next twelve years before the Supreme Court overturned this in the Second and Third Judges' case.

In a democratic set up, the legitimacy of every constitutional institution including the supreme judicial authority must be traced to the will and consent of the people, directly or indirectly. The bearers to public offices in all other institutions in the country are appointed either by an executive authority that is accountable to the people or by a mechanism involving the executive and legislature by law. No institution in a democracy is entitled under the constitutional provisions to assure itself any power of appointing its own successors. An unelected institution, however exalted, appointing its own peers and successors is smeared with the questions regarding democratic accountability. Since the pronouncements made by the judges have a strong and deep impact on the public at large, it is necessary that the judicial appointments are not made unilaterally by the incumbents of the said institutions. Transparency and objectivity in appointment of judges of the Supreme Court and the High Courts is also *sine qua non*, to ensure the credibility of the judiciary and the will of the people.

It is important to protect the credibility of the judiciary, an institution held in high regard by the citizens of India and the other organs of the State. This credibility must not be tarnished and a credible and respected Supreme Court alone can safeguard the Constitution and the nation and effectively reconcile justice, constitution, law, harmony and the public good. Any supposed unconstitutional usurpation of power by any constituent of democracy will only go to adversely affect the entire democratic set up. Any apprehension or suspicion that any input by the executive and/or legislature would deconstruct the independence of judiciary and the attempts to completely exclude the executive and/or legislature from the process of appointing judges would be wholly illogical and inconsistent with the foundations of the theory of democracy and a doctrinal heresy.

For achieving the goals as set out above, for ensuring the continued credibility and independence of judiciary and for reinforcing the faith of general public in the judicial set up, the proposed Bill seeks to restore the Constitutional scheme as established by the text of the constitution and not by judicial usurpation of constitutional amendment, while also defining the key term of "consultation" within the Constitution, removing ambiguity while subsequently eliminating substantial question of law regarding the term.

Hence this Bill.

SUKHENDU SEKHAR RAY

IX**BILL NO.XL OF 2017**

A Bill to provide for making teaching of vedic education compulsory in educational institutions and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Vedic Education (Compulsory Teaching in Educational Institutions) Act, 2017.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

Short title,
extent and
commencement.

(3) It shall come into force on such date as the Central Government may, by notification in the Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means,—

(i) the Central Government in the case of educational institutions run by the Central Government; and

(ii) in all other cases the State Government;

(b) “Council” means the Vedic Education Council established under section 4 of this Act;

(c) “educational institution” means an institution imparting education to children upto the level of secondary education but does not include a minority educational institution;

(d) “prescribed” means prescribed by rules made under this Act; and

(e) “vedic education” means education in principles and ideals underlying vedic literature, vedic philosophy and vedic life, which are non-religious in character.

Compulsory teaching of vedic education in educational institutions.

3. Vedic education as recommended by the Council shall be taught as a compulsory subject in all educational institutions in such form and manner as may be prescribed.

Constitution of Vedic Education Council.

4. (1) The Central Government shall, by notification in the Official Gazette, constitute, with effect from such date as may be specified in the notification, a Council to be known as the Vedic Education Council.

(2) The Council shall consist of such number of members, having special knowledge or experience in the fields of history, education or vedic studies, as may be prescribed.

(3) The Central Government may appoint such number of officers and staff as may be required for effective functioning of the Council.

(4) The salary and other allowances payable to, and other terms and conditions of service of, the members and officers and staff of the Council shall be such as may be prescribed from time to time.

Functions of the Council.

5. The Council shall perform the following functions, namely:—

(1) to make recommendations to the appropriate Government on the curriculum for vedic education for each class;

(2) to make recommendations to the appropriate Government regarding the class or category of students or educational institutions which shall be exempt from the provisions of the Act;

(3) to prescribe to the appropriate Government the principles and standards to be observed for granting accreditation to institutions imparting training to teachers of vedic education; and

(4) to advise the appropriate Government on imposition of penalty under section 7 of the Act.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the Council for carrying out the purposes of this Act.

Central Government to provide funds.

7. Where an educational institution fails to comply with the provisions of section 3 of this Act, then for the first failure, it shall be liable to a fine which may extend to five lakh rupees and for successive failures, the institution shall be liable to a fine which may extend to ten lakh rupees or de-recognition of the educational institution or both:

Penalty.

Provided that no penalty under this section shall be imposed on any educational institution unless a reasonable opportunity of being heard has been provided to such institution:

Provided further that no penalty under this section shall be imposed except on the recommendation of the Vedic Education Council.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

9. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Removal of Difficulties.

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

10. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The Vedic period is considered among the most glorious periods in Indian history. This was a period when civilisation grew and flourished socially, culturally, educationally and spiritually. The richness of vedic culture is so clearly evident in vedic literature - the Vedas being the most prominent among them. It is not surprising that the vedic philosophy enshrined in this literature pervaded all walks of vedic life. A grave misconception that has subsisted over centuries is that vedic literature is predominantly religious in character. On the contrary, Vedas are eternal and their appeal is universal since they transcend all religions. In fact, the essence or core of all religions, where they all agree, is the true vedic religion.

Vedas talk about equality, universal brotherhood, harmonious development of life and a rational, thinking. The essence of vedic knowledge, therefore, lies in those philosophical aspects that teach people to lead a life to its perfection. This is exactly what was sought to be achieved by imparting education in gurukuls.

Unlike the modern education, which is largely academic in nature, vedic education was more comprehensive in nature. It was not intended just to ensure employability of the pupils. Rather, it aimed at formation of individual character and inculcation of a sense of righteousness, self- control and discipline. Towards this end, vedic education touched all aspects of human life - from physical development to sublimation of instincts, commitment to motherland and indebtedness to mother earth.

Considering the relevance of these objectives in the present age and the contribution vedic education can make towards the objective of creating a responsible citizenry, the Bill provides for:—

- (i) compulsory vedic education of non-religious character in educational institutions;
- (ii) establishment of a Vedic Education Council for this purpose;
- (iii) imposition of pecuniary penalty or derecognition for failure to comply with the provisions of the Bill; and
- (iv) empowering the Vedic Education Council to recommend which class or category of students or educational institutions shall be exempt from the provisions of the Bill.

The Bill seeks to achieve the above objects.

NARAYAN LAL PANCHARIYA

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for constitution of the Vedic Education Council consisting of such number of members as may be prescribed and for salary and other allowances payable to its members, officers and staff. Clause 6 provides for making available adequate funds to the Council by the Central Government for carrying out the purposes of the Bill.

The Bill, therefore, would involve expenditure out of the Consolidated Fund of India. It is estimated that a recurring expenditure of fifteen crore rupees and non-recurring expenditure of two crore rupees per annum will be incurred out of the Consolidated Fund of India for the purpose of the Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause, 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislature power is of normal in character.

X**BILL No. XXXIX OF 2017**

A Bill to provide for the development and promotion of solar power generation and mandatory use of solar power in buildings with a view to saving conventional energy and protecting the environment and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Solar Power (Development, Promotion and Mandatory Use) Act, 2017.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means, in the case of a State, the Government of that State, and in other cases, the Central Government.

(b) “authority”, means the National Solar Power Development Authority of India, established under section 4 of this Act;

(c) “buildings” include all structures and installations notified by the appropriate Government under this Act;

(d) “prescribed” means prescribed by rules made under this Act;

(e) “solar photovoltaic modules, panels and solar thermal collectors” mean flat or concentrating devices which collect, convert or store solar energy for use in the form of heat or electricity.

3. It shall be obligatory for the owners, lessees, tenants, builders and promoters of every building to install solar photovoltaic modules, panels and solar thermal collection on the top in the land forming part of the property, for generating electricity in order to meet a part of its total electricity requirement in such manner as may be prescribed by the appropriate Government.

Obligation for the owners, lessees, tenants, builders and promoters of buildings.

4. Where any building has a solar capacity which exceeds its own requirements, such excess electricity shall be transmitted to the grid and the owners, lessees, tenants or other users of the building shall be entitled to such incentives as may be prescribed by the appropriate Government.

Transmission of excess electricity to grid.

5. (1) For the purposes of this Act, the Central Government shall, by notification in the Official Gazette, establish an Authority, to be known as the National Solar Power Development Authority of India, with its headquarters at New Delhi.

Establishment of a National Solar Power Development Authority of India.

(2) The Authority may have such number of regional offices in any region or parts or in the States as may be required.

6. (1) The Authority shall be headed by a Chairperson and five other members to be appointed by the Central Government in such manner as may be prescribed.

Composition of the Authority.

(2) The terms and conditions of the service of the Chairperson and the members shall be such as may be prescribed.

(3) The Authority shall have a Secretariat with such set up as may be prescribed.

(4) The Authority shall meet at such time and such places, and shall observe such procedure in regard to the transaction of business at its meetings as may be prescribed.

7. The Authority shall perform the following functions, namely to,—

Functions of the Authority.

(a) specify the categories and size of the buildings to be covered by the Act;

(b) recommend amendments to building bye-laws so as to make it obligatory for the owners, contractors builders and promoters of all new buildings to install solar photovoltaic modules, panels and solar thermal collectors as specified in this Act;

(c) specify the minimum percentage of the total electricity requirements of a building to be met through solar energy;

(d) specify the circumstances and technical grounds under which exemptions may be granted from the provisions of this Act;

(e) recommend to the appropriate Government, the provisions for subsidies and other incentives for the installation of solar energy systems in new buildings as well as existing building; and

(f) recommend appropriate concessions like subsidies, etc. for the solar energy equipment, in order to promote awareness among the people about the availability of solar thermal and photovoltaic products and the benefits arising from their use.

Authority to grant exemptions.

8. The Authority may, on an application made by an individual or establishment, grant exemption from the provision of section 3 for reasons to be recorded in writing.

Central Government to provide funds.

9. The Central Government shall, after due appropriation made by Parliament by law provide requisite funds for the purposes of this Act, from time to time.

Penalty.

10. Whoever contravenes the provisions of this Act, shall be liable to be punished with imprisonment which may extend to three months or with fine up to two lakh rupees.

Saving.

11. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

12. The appropriate Government state may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

For decades, the power generation in India has been dominated by thermal power. Presently, out of the total power generation in the country about two-thirds of power is produced by thermal plants, with coal-based power plants topping the list by a sizeable margin. The Renewable Energy Sources, including Small Hydro Projects, Biomass Gasifiers, Biomass Power, Urban & Industrial Waste Power, Solar and Wind Energy hardly account for 17-18 per cent of total power generation. Thus, the share of solar power in total power generation is too little to be significant. India has high solar insolation, which is an ideal condition for generation of solar power. This is particularly true about Gujarat and parts of Rajasthan and Deccan Plateau. Still, the installed capacity of solar plants in the year 2014 stood at 2500 MW only.

The Government has identified the advantage, India's vast geography and favourable geographical location offers. As a result the Solar Power capacity has more than quadrupled in a short span of three years, reaching beyond 10 GW from a meagre 2500 MW in 2014. The Government aims to further raise it to 22 GW by the end of current fiscal and to 100 GW by the end of the year 2022.

While the new solar capacity is being generated mainly in commercial, institutional sector, there is no denying the fact that roof top solar power generation in buildings such as Government offices, schools, hospitals and other large institutions can be a significant source of solar electricity. This requires an institutionalised mechanism which can tap this endless source of energy at micro levels.

Towards this end, the Bill seeks to—

- (i) Make it obligatory for the owners, lessees, tenants, builders and promoters of every specified building to install solar photovoltaic modules and panels, on the top or in the land forming part of the property, for generating electricity in order to meet a part of its total electricity requirement in such manner as may be prescribed;
- (ii) provide for transmission of excess electricity to the grid and grant of suitable incentives for such excess generation and transmission;
- (iii) provide for establishment of a National Solar Power Development Authority of India to regulate and promote roof-top solar power generation; and
- (iv) provide that if a person fails to fulfil his obligation under the Bill, he shall be liable to a fine of up to two lakh rupees or imprisonment up to three months.

The Bill seeks to achieve the above objects.

NARAYAN LAL PANCHARIYA

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides that Central Government shall establish the National Solar Power Development Authority of India for development and promotion of the use of the solar energy. Clause 7 of the Bill makes provision of subsidy and other incentives for installation of solar energy systems in new buildings as well as existing buildings. Clause 9 makes provision for the Central Government to provide requisite funds for carrying out the purposes of this Bill.

The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. The recurring and non-recurring expenditure on this count cannot be estimated at this stage, but has to be worked out by the Central Government while implementing the provisions of the Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the appropriate Government to frame rules by notification in the Official Gazette, to carry out the provision of the Bill.

The rules to be framed by the appropriate Government pertain to matters of administrative detail, which cannot be laid down in the Bill itself.

The delegation is, therefore, normal in character.

XI**BILL No. XXXVIII OF 2017**

A Bill to provide for the constitution of judicial statistical authorities for collection and publication of judicial statistics and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I**PRELIMINARY**

1. (1) This Act may be called the Judicial Statistics Act, 2017.

Short title and extent.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “District Authority” means the District Judicial Statistics Authority constituted under sub-section (1) of section 7;

(b) “National Authority” means the National Judicial Statistics Authority established under sub-section (1) of section 3;

(c) “prescribed” means prescribed by rules made under this Act;

(d) “State Authority” means the State Judicial Statistics Authority constituted under sub-section (1) of section 5.

CHAPTER II

NATIONAL AUTHORITY FOR JUDICIAL STATISTICS

Constitution
of National
Judicial
Statistics
Authority:

3. (1) The Central Government shall constitute an authority to be called the National Authority for Judicial Statistics to exercise the powers and perform the functions conferred on it under this Act.

(2) The National Authority shall consist of,—

(a) the Chief Justice of India who shall be the Patron-in-Chief;

(b) a serving or a retired Judge of the Supreme Court to be nominated by the President in consultation with the Chief Justice of India who shall be the Executive Chairman;

(c) Presiding Officers of the Tribunals established under various Acts of Parliament;

(d) Registrar-General of the Supreme Court who shall be Member Secretary *ex officio*;

(e) Such number of other members possessing such experience and qualifications as may be prescribed by the Central Government.

Duties of the
National
Authority.

4. (1) It shall be the duty of the National Authority to collect or cause to be collected statistics about the cases, appeals, petitions and other matters filed in the Supreme Court and in other Tribunals established under any Act of Parliament.

(2) Without prejudice to the provisions of sub-section (1), the National Authority shall collect or cause to be collected the following facts and particulars, namely:—

(a) the legal nature of the dispute;

(b) outcome of dispute;

(c) in case of appeal whether the decision of the High Court was upheld or reversed;

(d) the names of the judges who heard them;

(e) the Act and the section under which the cause of action is invoked by the litigants;

(f) the number of hours taken;

(g) adjournments granted;

(h) the lawyers who appeared for the parties;

(i) interval between filing of cases and their hearing by the court;

(j) date of final disposal of the case;

(k) time taken for delivery of judgements after conclusion of hearing; and

(l) such other details as may be prescribed by the Central Government.

CHAPTER III

STATE AUTHORITY FOR JUDICIAL STATISTICS

5. (1) Every State Government shall constitute for the purposes of this Act, an authority for the State to be known as the (.....) Authority for Judicial Statistics to exercise the powers and perform the functions conferred on it under this Act.

Constitution
of State
Judicial
Statistics
Authority.

(2) The State Authority shall consist of—

(a) the Chief Justice of the High Court who shall be the Patron-in-Chief;

(b) a serving or a retired Judge of the High Court to be nominated by the Governor in consultation with the Chief Justice of the High Court who shall be the Executive Chairman;

(c) Presiding Officers of the Tribunals established under any Act of the State Legislature;

(d) Registrar of the High Court who shall be Member Secretary *ex officio*; and

(e) such number of other members possessing such experience and qualifications as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

6. (1) It shall be the duty of the State Authority to collect or cause to be collected statistics about the cases, appeals, petitions and other matters filed in the High Court and in other Tribunals established under any Act of the State Legislature.

Duties of
the State
Authority.

(2) Without prejudice to the provisions of sub-section (1), the State Authority shall collect or cause to be collected the following facts and particulars, namely:—

(a) the legal nature of the dispute;

(b) outcome of dispute;

(c) in case of appeal whether the decision of the lower Court was upheld or reversed;

(d) the names of the judges who heard them;

(e) the Act and the section under which the cause of action is invoked by the litigants;

(f) the number of hours taken;

(g) adjournments granted;

(h) the lawyers who appeared for the parties;

(i) interval between filing of cases and their hearing by the court;

(j) date of final disposal of the case;

(k) time taken for delivery of judgments after conclusion of hearings; and

(l) such other details as may be prescribed by the State Government.

CHAPTER IV

DISTRICT AUTHORITY FOR JUDICIAL STATISTICS

7. (1) The State Government shall in consultation with the Chief Justice of the High Court constitute for the purposes of this Act an authority for each district to be known as the (.....) Authority for Judicial Statistics to exercise the powers and perform the functions conferred on it under this Act.

Constitution
of District
Judicial
Statistics
Authority.

(2) The District Authority shall consist of,—

(a) the District Judge who shall be the Patron-in-Chief;

(b) such number of other members possessing such experience and qualifications as may be prescribed by State Government.

Duties of the
District
Authority.

8. (1) It shall be the duty of the District Authority to collect or cause to be collected statistics about the cases, appeals, petitions and other matters filed in the District Court and in other courts subordinate to it.

(2) Without prejudice to the provisions of sub-section (1) the District Authority shall collect or cause to be collected the following facts and particulars, namely:—

(a) the legal nature of the dispute;

(b) outcome of dispute;

(c) in case of appeal whether the decision of the lower Court was upheld or reversed;

(d) the names of the judges who heard them;

(e) the Act and the section under which the cause of action is invoked by the litigants;

(f) the number of hours taken;

(g) adjournments granted;

(h) the lawyers who appeared for the parties;

(i) interval between filing of case's and their hearing by the court;

(j) date of final disposal of the case;

(k) time taken for delivery of judgments after conclusion of hearings; and

(l) such other details as may be prescribed.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

Grants by
Central
Government.

9. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide to the National Authority, by way of grants, such sums of money as the Central Government may think fit for being utilized for the purposes of this Act.

National
Judicial
Statistics
Fund.

10. (1) The National Authority shall establish a fund to be called the National Judicial Statistics Fund and there shall be credited thereto:—

(a) all sums of money given as grants by the Central Government under section 9;

(b) any grants or donations that may be made to the National Authority by any person for the purposes of this Act; and

(c) any amount received by the National Authority under the orders of any court or from any other source.

(2) The National Judicial Statistics Fund shall be applied for meeting—

(a) the cost of collecting judicial statistics under this Act including grants made to State Authorities;

(b) the cost of services provided by any service provider for collecting statistics under this Act; and

(c) any other expenses which are required to be met by the National Authority.

11. (1) A State Authority shall establish a fund to be called the State Judicial Statistics Fund and there shall be credited thereto,—

State Judicial
Statistics
Fund.

(a) all sums of money paid to it or any grants made by the National Authority for the purposes of this Act;

(b) any grants or donations that may be made to the State Authority by the State Government or by any person for the purposes of this Act; and

(c) any other amount received by the State Authority from any other source.

(2) A State Judicial Statistics Fund shall be applied for meeting,—

(a) the cost of collecting judicial statistics under section 6;

(b) the cost of services provided by any service provider for collecting statistics under section 6; and

(c) any other expenses for collection of statistics under this Act which are required to be met by the State Authority.

12. (1) Every District Authority shall establish a fund to be called the District Judicial Statistics Fund and there shall be credited thereto,—

District
Judicial
Statistics
Fund.

(a) all sums of money paid or any grants made by the State Authority to the District Authority for the purposes of this Act;

(b) any grants or donations that may be made to the District Authority by any person, with the prior approval of the State Authority, for the purposes of this Act; and

(c) any other amount received by the District Authority from any other sources.

(2) A District Judicial Statistics Fund shall be applied for meeting,—

(a) the cost of collecting judicial statistics under section 8; and

(b) any other expenses which are required to be met by the District Authority for collection of statistics under section 8.

13. (1) The National Authority, State Authority or the District Authority (hereinafter referred to in this section as the 'Authority'), as the case may be, shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the income and expenditure account and the balance-sheet in such form and in such manner as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and
Audit.

(2) The accounts of the Authorities shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority concerned to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the auditing of the accounts of an Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authorities under this Act.

(4) The accounts of the Authorities, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually by the Authorities to the Central Government or the State Governments, as the case may be.

CHAPTER VI

JUDICIAL STATISTICS REPORTS

National
Judicial
Statistics
Report.

14. (1) The National Authority shall prepare an Annual National Judicial Statistics Report based on the statistics of cases, appeals, petitions and other matters referred to in sub-section (1) of section 4 collected during the previous year.

(2) The Report prepared under sub-section (1) shall—

(a) describe in detail the criminal, civil constitutional and other business of the Supreme Court and other Tribunals referred to in sub-section (1) of section 3;

(b) provide a commentary on the trends revealed by the statistics;

(c) contain information about flow of cases; and

(d) contain such other matter as may be prescribed by the Central Government.

State Judicial
Statistics
Report.

15. (1) Every State Authority shall prepare an Annual Judicial Statistics Report based on the statistics of cases, appeals, petitions and other matters referred to in sub-section (1) of section 6 collected during the previous year.

(2) The Report prepared under sub-section (1) shall also contain a consolidated statement of statistics collected by the District Authorities under sub-section (1) of section 8 during the previous year.

(3) The report prepared under sub-section (1) shall,—

(a) describe in detail the criminal, civil, constitutional and other business of the High Court and other Tribunals referred to in sub-section (1) of section 6 and the District and subordinate courts under sub-section (1) of section 8;

(b) provide a commentary on the trends revealed by such statistics;

(c) contain information about flow of cases; and

(d) contain such other matters as maybe prescribed by State Government.

Publication of
Judicial
Statistics
Reports.

16. The Annual National Judicial Statistics Report and the Annual State Judicial Statistics Report shall be published before the reopening of the Supreme Court or the High Court as the case may be, after the summer vacation.

Power of
Central
Government
to make
Rules.

17. (1) The Central Government, in consultation with the Chief Justice of India may, by notification in the official gazette make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

(a) the experience and qualifications of members under clause (e) of sub-section (2) of section 3;

(b) other details which may be prescribed under clause (1) of sub-section (2) of section 4;

(c) other matters which a Report may contain under clause (d) of sub-section (2) of section 14; and

(d) any other matter which is to be or required to be prescribed.

Power of
State
Government
to make
Rules.

18. (1) The State Government, in consultation with the Chief Justice of the High Court may, by notification, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

(a) the experience and qualifications of members under clause (e) of sub-section (2) of section 5;

(b) other details which may be prescribed under clause (l) of sub-section (2) of section 6;

(c) the experience and qualifications of members under clause (b) of sub-section (2) of section 7;

(d) other details which may be prescribed under clause (l) of sub-section (2) of section 8;

(e) other matters which a Report may contain under clause (d) of sub-section (3) of section 15; and

(f) any other matter which is to be or required to be prescribed.

19. (1) Every rule made under this Act by the Central Government shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule or regulation should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Laying of
Rules.

(2) Every rule made under this Act by a State Government shall be laid as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

Economic reforms cannot succeed unless accompanied by legal and judicial reforms. Law reform has hitherto focused mainly on doctrinal research because of a lack of statistical data, which has hampered law reform agencies like the Law Commission from undertaking law-in-action studies. Pure doctrinal legal research cannot adequately respond to new economic challenges. With the globalization of the economy swift changes are needed in the legal and judicial sector to keep pace with new challenges.

Fortunately new means of collecting empirical data in the legal field are available with the advent of the information technology revolution. The availability of empirical data will help legal scholars to better assess the performance of our judicial institutions. It will also help legal researchers and the law reform agencies like the Law Commission to diagnose accurately the fault lines in the judicial and legal sector. Above all, it will make for greater transparency.

Design of judicial data base and making it available to the public in the form of an Annual Report will facilitate all the stakeholders to understand the legal problems in proper perspective.

The practice of publishing Annual Judicial Statistics report is already in vogue in many countries. In the United Kingdom, the Lord Chancellor publishes an Annual Judicial Statistics Report. In the US, all courts prepare and publish such reports.

Publication of an Annual Judicial Statistics Report will help the general public and other stake holders to assess the performance of the judicial institutions and suggest remedies for judicial backlog. It will go a long way towards demystifying the law and the administration of justice.

The Bill seeks to achieve the above objects.

NARAYAN LAL PANCHARIYA

FINANCIAL MEMORANDUM

Clause 3 of the Bill enables the Central Government to constitute a body to be called the National Judicial Statistics Authority and it shall consist of the Chief Justice of India and some other Members. Clause 9 of the Bill empowers the Central Government to pay to the National Authority such sums of money as the Central Government may think fit for being utilized for the purposes of this Act.

The grants to be made by the Government and all expenses incurred in connection with the administration of the National Judicial Statistics Authority will be met from the Consolidated Fund of India. The total budgetary requirement is estimated at rupees fifty crore. This includes sums which will be granted to the State Statistics Authorities.

The recurring expenditure of rupees fifty lakh is required for the conduct of meetings and for other supporting staff.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules to carry out the provisions of the proposed legislation. These rules would relate to the matters required to be dealt by the Central Government under the provisions of the Bill. Clause 18 of the Bill empowers the State Government to make rules to carry out the provisions of the proposed legislation. These rules would relate to matters which are required to be dealt by the State Government under the provisions of the Bill.

The matters in respect of which rules may be made by the Central Government and the State Government relates to matters of administrative detail and procedure. The delegated legislative power is therefore of a normal character.

DESH DEEPAK VERMA,
Secretary-General.